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## *Memorandum*

TO: Transit Finance Working Group

DATE: August 1, 2012

FR: Glen Tepke

RE: FY13 – FY14 TCP Policy Update

This item proposes revisions to the Transit Capital Priorities (TCP) Process and Criteria, the regional policy that governs the programming of funds from the FTA Urbanized Area Formula (Section 5307) and Fixed Guideway Modernization (Section 5309 FG) programs, or their successors, to address changes to FTA’s funding programs under the Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21) federal transportation authorizing legislation recently enacted by Congress. The item also recaps revisions to the TCP policy that were previously considered and approved by the TFWG. See the Legislative Update item in this agenda packet for additional information on MAP-21.

Staff seeks TFWG feedback on the recommended policy revisions, and on whether the proposed TCP policy for FY13 and FY14 can be taken to the MTC Commission for approval in September, or if the policy requires additional discussion at the September TFWG meeting.

### **Background**

At its June 20 meeting, the TFWG reviewed a draft of the proposed Transit Capital Priorities policy for FY13, which was scheduled to be approved by the MTC Commission in July. The proposed policy assumed that Congress would be unable to agree on a surface transportation reauthorization bill, and would instead extend the SAFETEA authorization through at least part of FFY13, which would have meant no changes to current FTA funding programs. However, Congress surprised us by enacting the MAP-21 authorization, which makes several changes to FTA funding programs and policies related to the TCP program.

Because there was insufficient time between the enactment of MAP-21 and the July Commission meeting to assess the impacts of these changes and propose appropriate updates to the TCP policy, staff withdrew the TCP policy item from the July Commission agenda. Staff also deferred issuing the Call for Projects for the FY13 program while assessing the impact of MAP-21. Since then, staff has been developing additional proposed revisions to the policy to address the MAP-21 changes for consideration by the TFWG.

## **MAP-21 Changes and Associated TCP Policy Proposals**

### **Term of Authorization**

While the Senate version of MAP-21 extended transportation programs only through FY13, the final legislation also covers FY14. The terms of the TCP policy and programs are generally aligned with the term of the current authorization.

### **Recommendation:**

1. Extend the term of the proposed TCP policy to cover FY14 as well as FY13, and develop a corresponding two-year TCP program.

### **JARC/Lifeline**

MAP-21 eliminates the Job Access and Reverse Commute (JARC) program (Section 5316) and combines JARC functions and funding with the Urbanized Area Formula (Section 5307) and the Non-urbanized Area Formula (Section 5311) programs. JARC projects are made eligible for 5307 funding, and 3.07% of 5307 appropriations are apportioned by the JARC low-income formula. However, there are no minimum or maximum amounts that can be programmed for JARC projects.

Section 5307 funds apportioned to the region via the JARC formula are projected to total approximately \$2.9 million annually, including \$2.4 million in large urbanized areas (UAs).

### **TCP Policy Issues:**

- The region has historically used JARC funds to support the Lifeline program.
- The adopted Lifeline programs for FY12 and FY13 each assumed \$2.8 million JARC funding from large UAs, about \$200,000 over the actual FY12 apportionments, and \$400,000 over the projected FY13 apportionment.
- It is currently unclear whether Caltrans or MTC will manage the programming for JARC projects in small urbanized areas. Caltrans managed these funds under the old JARC program. MAP-21 specifies that 25% (of the 3.07%) is apportioned to designated recipients for small UAs. Caltrans has delegated 5307 designated recipient responsibilities for small UAs to MTC, but Caltrans is still nominally the designated recipient.

### **Recommendations:**

1. Specify that the Lifeline program is the first priority for 5307 funds apportioned by the JARC formula.
2. In the FY13 5307 program, set aside \$3.0 million of large UA funds for Lifeline (approximately \$2.8 million for the FY13 program and \$200,000 for the FY12 shortfall).

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3. Set-aside 5307 funds equivalent to the JARC apportionments to large UAs, projected to total \$2.4 million, for the FY14 Lifeline program.
4. Hold FY13 FTA 5307 funds equivalent to FTA's estimates of JARC apportionments to small UAs in reserve while working with Caltrans to determine the process for programming JARC in small UAs. If MTC manages these funds, the first priority for the reserved funds would be Lifeline projects in small UAs.

### 5307 Operating Assistance Eligibility

MAP-21 provides new eligibility for small and medium-sized bus operators in large UAs to use 5307 for operating assistance. Currently, operating assistance is eligible only in small UAs.

Size of Operator	% of apportionment attributable to operator eligible for operating assistance	Bay Area operators affected
Up to 75 buses	75%	ECCTA, Sonoma County, WestCat, Santa Rosa, Union City
76 – 100 buses	50%	None

#### TCP Policy Issue:

- Conflicts with current regional priority of TCP for capital replacement/rehab. Operating assistance is Score 8.

#### Recommendation:

1. Treat eligible operators in large UAs like operators in small UAs: eligible operators may request operating assistance up to the maximum eligible amount, but operating assistance will be programmed only after higher scoring projects in the same UA are funded. Maintain operating assistance at Score 8.

### Section 5337 State of Good Repair Program

MAP-21 replaces the Fixed Guideway Modernization program (Section 5309 FG) with a new State of Good Repair (SGR) program (Section 5337). The SGR program consists of two sub-programs: High Intensity Fixed Guideway (FG) SGR and High Intensity Motorbus (HIM) SGR. FG includes rail, electric trolley, ferry and bus rapid transit services. HIM means public transportation service provided in HOV lanes.

Eligible projects in both sub-programs are virtually the same as for the 5309 FG program: replacement and rehabilitation of rolling stock; track; line equipment and structures; signals and communications; power equipment and substations; passenger stations and terminals; security equipment and systems; maintenance facilities and equipment; operational support equipment, including computer hardware and software; and development and implementation of a transit asset management plan. It is unclear whether

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preventive maintenance is eligible; this should be clarified when FTA issues guidance for implementing the new program.

Of the funds appropriated for Section 5337, 97.15% are apportioned to urbanized areas by the FG formula and 2.85% are apportioned by the HIM formula. The FG apportionment formula is based 50% on each urbanized area's share of the 5309 FG program in FY11, 30% on FG vehicle revenue miles, and 20% on FG directional route miles, with a limit so that no UA's apportionment changes by more than 0.25% from the previous year. The HIM apportionment formula is based 60% on HIM vehicle revenue miles, and 40% on HIM directional route miles. In both sub-programs, only service data from systems that have been in service for at least seven years is used in the apportionment formula, though apportioned funds can be programmed for systems of any age.

Regional apportionments are projected to total \$168.1 million in FY13, compared to \$132.2 million from the 5309 FG program in FY12.

The language of MAP-21 is unclear on whether funds apportioned under the HIM formula can be programmed for FG projects. Preliminary indications are that HIM apportionments can be used only for HIM projects. This should be clarified when FTA issues guidance for implementing the new program.

### TCP Policy Issues:

- The higher funding levels from the 5337 SGR program compared to 5309 FG may enable the region to increase the Fixed Guideway Project Caps, depending on the needs for other Score 16 projects.
- If HIM apportionments can be used only for HIM projects, the region may be challenged to identify eligible projects, depending on the timing of the replacement cycle for buses used in HIM service. The region is projected to receive HIM apportionments in the SF-O, San Jose and Concord urbanized areas totaling about \$4.2 million annually.

### Recommendations:

1. Replace references to the 5309 FG program in the TCP policy with 5337 SGR.
2. In the FY13 – FY14 TCP Call for Projects, specify that fixed guideway operators should submit project requests which total to the previously proposed Fixed Guideway Project Cap for each operator, plus contingency project requests which total to 20% of the previously proposed Fixed Guideway Project Cap for each operator.
3. After responses to the Call for Projects are submitted, assess the need for other Score 16 projects, and program all or part of the contingency fixed guideway projects if funding allows.
4. Identify HIM-eligible projects in the TCP Call for Projects.
5. Advocate with FTA for flexibility to use HIM funds for FG, and vice versa, depending on the relative needs for each service type in a given year.

### **Section 5339 Bus & Bus Facilities Program**

MAP-21 replaces the Bus and Bus Facilities discretionary program (Section 5309 Bus) with a new Bus and Bus Facilities formula program (Section 5339). Eligible projects are similar to 5309 Bus: replacement, rehabilitation, and purchase of buses and related equipment; and construction of bus-related facilities. It is unclear whether preventive maintenance is eligible; this should be clarified when FTA issues guidance for implementing the new program.

The apportionment formula is based on the population and bus tiers of the 5307 formula. Funds are apportioned to both large and small UAs. Regional apportionments are projected to total about \$13 million annually.

#### TCP Policy Issues:

- There is no prior TCP policy for programming these funds. Since Congress stopped earmarking 5309 Bus, FTA has been using the funds for its discretionary State of Good Repair, Livability, Urban Partnership and Veterans Transportation initiatives – a mix of expansion/enhancement and replacement/rehab projects – with an emphasis on state of good repair over the last two years.
- MAP-21 specifies that eligible recipients of 5339 Bus grants are designated recipients that operate fixed route bus service or that allocate funding to fixed route bus operators, and that the designated recipient may allocate grant amounts to subrecipients. MTC is the designated recipient of FTA formula funds in the region. MTC is seeking clarification from FTA how to interpret this language.

#### Recommendations:

1. Make the Transit Performance Initiative (TPI) Investment program, developed as part of the Transit Sustainability Project (TSP), the first priority for 5339 Bus funds. Program TPI projects through a separate call for projects and program development process from the TCP program.
2. Use any 5339 Bus funds not programmed to TPI projects to supplement the TCP replacement/rehab program.
3. Advocate with FTA for making transit operators direct recipients of 5339 grants, so the grant process would be the same as for the 5307 and 5337 SGR programs.

### **Transit Asset Management**

MAP-21 requires FTA funding recipients to develop transit asset management (TAM) plans, including capital asset inventories and condition assessments, reporting to National Transit Database, and performance measures, targets and reports. FTA has one year from the enactment of MAP-21 to issue a final rule implementing TAM requirements.

#### TCP Policy Issues:

- The region is relatively well positioned to meet the new TAM requirements due to development of the Regional Transit Capital Inventory (RTCI) and the use of FTA's TERM model to assess asset

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conditions and project capital needs, but individual operators vary widely in their approaches to TAM.

- SFMTA, BART, AC Transit and Caltrain each received an FTA State of Good Repair or TAM Pilot Project grant to develop or improve their TAM systems, but each is using a different approach and software.

### Recommendations:

1. Work with FTA to ensure that RTCI data can be used to help meet TAM requirements.
2. Work with the operators to evaluate TAM systems and consider joint procurement of such systems to reduce costs, facilitate data interchange with RTCI and NTD, and comply with the new TAM requirements. Grandfather operators that already developed systems with FTA earmarks.

### **Other TCP Policy Proposals**

#### **TPI Incentive Program**

The Transit Sustainability Project (TSP) recommendations approved by the Commission included a proposal to redirect the 5307 Flexible Set-aside funds to a Transit Performance Initiative (TPI) incentive strategy to reward operators who achieve ridership increases and productivity improvements over the prior year.

### TCP Policy Issues:

- The 5307 Flexible Set-Aside was not programmed in FY11 or FY12 due to lower-than-expected apportionments. Before that, 10% or roughly \$20 million of 5307 funds was directed annually to Flex Set-Aside projects.
- FY13 5307 apportionments (apart from JARC) are projected to be \$4.5 million below FY12 due to declining share of national service levels for several of region's UAs. However, overall TCP funding is up \$32.9 million or 9.6% if the 5309 Fixed Guideway and the new 5337 State of Good programs are included in the comparison.

### Recommendations:

1. Program \$15 million for TPI incentives from Surface Transportation Program (STP) Transit Capital Program funds instead of from 5307. This amount is less than the old Flex Set-Aside and less than half of the net increase in TCP funding, which preserves most of the increase for replacement/rehab needs. The use of STP eliminates the urbanized area restrictions of the FTA formula programs.
2. Develop and bring TPI formula recommendations to the Commission in fall 2012.

## **TCP Reserve for Unanticipated Costs**

### TCP Policy Issue:

- Unanticipated, externally imposed costs are difficult to accommodate in the TCP program after the program has been developed, e.g., bus emission filter replacements required by CARB, and narrow-banding (communications systems upgrades) required by FCC.

### Recommendation:

1. Set aside \$1 - 2 million to create a rolling reserve in 5307 and 5337 SGR programs for unanticipated costs, e.g., \$1 million 5307 + \$1 million 5337.

## **Vehicle Procurement Reserve**

Prior to the enactment of MAP-21, staff proposed elimination of the Vehicle Procurement Reserve - \$150 million of FY2010-11 and FY2011-12 funds that were programmed to meet future needs for major railcar replacements by BART and Caltrain – from the FY13 TCP policy, and to revisit the need for the Vehicle Procurement Reserve when developing the policy for FY14. This was because other high priority needs in FY13 were projected to consume nearly all available apportionments under the revenue assumptions in use at that time.

### TCP Policy Issue:

- MAP-21's higher funding levels may enable the region to reinstate the Vehicle Procurement Reserve and program TCP funds for future vehicle replacement needs in FY13 and/or FY14, depending on the need for other Score 16 projects, and on whether the Fixed Guideway Project Caps are increased, as discussed above.

### Recommendation:

1. Provide for flexibility to program TCP funds for future vehicle replacement needs if funding and other high priority needs allow. Any Vehicle Procurement Reserve programming would be subject to review by the TFWG as part of the proposed FY13 – FY14 TCP program.

## **Pre-MAP-21 TCP Policy Revisions**

Following is a summary of other revisions to the TCP policy that were reviewed and approved by the TFWG prior to the enactment of MAP-21. Staff plans to include each of these elements in the proposed update to the TCP policy. For more information on these policy elements, see the staff memos regarding the FY13 TCP Policy update for the April 4, May 2 and June 20 TFWG meetings.

- Increased flexibility to advance programming for vehicle replacements if the proposal has minimal impacts on other operators and can be accommodated within the region's fiscal constraints;

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- Updated formula for distributing fixed guideway rehabilitation funds based on projected needs in Plan Bay Area, and increased flexibility to use fixed guideway funds for other high priority capital needs;
- Project caps for non-vehicle, non-fixed guideway projects, such as communications systems, reduced from \$7.5 million to \$5 million due to limited funding projected to be available;
- Consideration of an operator's unexpended prior year funds before programming additional funds for the same project;
- In recognition of the policy direction of the Transit Sustainability Project, a requirement to assess the opportunities for joint procurements and integrated operations with other operators before programming for replacement of vehicles and other equipment;

### **MAP-21 Apportionment Estimates**

Attachment A provides FY13 and FY14 apportionment projections for FTA funding programs included in the TCP program, and related programs, including the proposed 5307 Lifeline set-aside.

### **Next Steps**

1. Review proposed revisions to TCP policy with TFWG: August 1.
2. Issue Call for Projects: Week of July 30. In line with the recommendation to develop a two-year program, the Call for Projects will request project proposals for FY13 and FY14.
3. Take proposed policy to MTC's Programming & Allocations Committee and Commission: September (or October if additional discussion with TFWG is required).
4. Project requests due: early September.
5. Proposed FY13 – FY14 program to TFWG: October 5
6. Take FY13 – FY14 program to Commission, amend program into TIP: November

Attachment A. Transit Capital Priorities Program FY13 - FY14 Apportionment Estimates

Urbanized Area	FY 2013						FY 2014					
	TCP Programs			Related Programs			TCP Programs			Related Programs		
	Section 5307 Urbanized Area (Excludes JARC)	Section 5337 State of Good Repair		Total TCP	Section 5307 Lifeline Set-Aside (1)	Section 5339 Bus & Bus Facilities (2)	Section 5307 Urbanized Area (Excludes JARC)	Section 5337 State of Good Repair		Total TCP	Section 5307 Lifeline Set-Aside (1)	Section 5339 Bus & Bus Facilities (2)
	Fixed Guideway	High Intensity Bus					Fixed Guideway	High Intensity Bus				
<b>Large UAs</b>												
San Francisco-Oakland	123,064,749	112,002,202	1,589,968	236,656,919	1,864,783	6,674,463	125,267,034	113,554,075	1,611,998	240,433,106	1,445,109	6,783,051
San Jose	40,596,738	21,588,988	2,295,474	64,481,199	688,400	2,712,207	41,290,284	21,888,119	2,327,279	65,505,682	580,429	2,756,333
Concord	19,461,349	26,208,243	268,105	45,937,697	150,055	815,651	19,767,822	26,571,377	271,819	46,611,019	124,656	828,922
Antioch	6,310,204	4,147,987		10,458,192	126,353	413,658	6,400,204	4,205,461		10,605,665	127,649	420,388
Santa Rosa	4,502,277			4,502,277	156,864	476,503	4,588,533			4,588,533	135,550	484,255
Subtotal Large UAs	193,935,317	163,947,420	4,153,546	362,036,283	2,986,455	11,092,482	197,313,877	166,219,032	4,211,096	367,744,005	2,413,393	11,272,948
<b>Small UAs</b>												
Vallejo	3,207,762			3,207,762	138,107	485,098	3,252,355			3,252,355	140,014	492,990
Fairfield	2,369,487			2,369,487	94,651	356,751	2,402,427			2,402,427	95,958	362,555
Vacaville	2,070,216			2,070,216	41,073	249,051	2,098,953			2,098,953	41,640	253,103
Napa	1,450,933			1,450,933	71,632	218,177	1,471,103			1,471,103	72,621	221,727
Livermore	1,433,379			1,433,379	31,800	215,709	1,453,305			1,453,305	32,239	219,218
Gilroy-Morgan Hill	1,365,304			1,365,304	61,111	202,688	1,384,284			1,384,284	61,954	205,986
Petaluma	1,059,005			1,059,005	31,600	158,862	1,073,726			1,073,726	32,037	161,447
Subtotal Small UAs	12,956,086	-	-	12,956,086	469,976	1,886,336	13,136,153	-	-	13,136,153	476,463	1,917,026
<b>RegionTotal</b>	<b>206,891,403</b>	<b>163,947,420</b>	<b>4,153,546</b>	<b>374,992,369</b>	<b>3,456,431</b>	<b>12,978,818</b>	<b>210,450,030</b>	<b>166,219,032</b>	<b>4,211,096</b>	<b>380,880,158</b>	<b>2,889,855</b>	<b>13,189,974</b>

Notes:

- (1) 5307 funds apportioned by JARC formula are set aside for Lifeline program. 5307 funds apportioned to small UAs by JARC formula to be held in reserve until MTC/Caltrans programming process is clarified.
- (2) First priority for 5339 Bus funds is Transit Performance Initiative (TPI) projects. 5339 Bus funds not programmed for TPI projects to be programmed for TCP projects.